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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,087	02/19/2004	Eric Owens	P03820	7012

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EXAMINER

BATES, ZAKIYA W

ART UNIT PAPER NUMBER

3676

DATE MAILED: 08/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/784,087

Applicant(s)

OWENS, ERIC

Examiner

Zakiya W. Bates

Art Unit

3676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 22-29 is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☒ Claim(s) 2-51 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Botts.

Botts discloses a system that includes, with respect to claims 1 and 2, a system for capping at least one well pipe 40 having at least one upper opening and at least one interior portion containing at least one controllable apparatus, the at least one controllable apparatus 66 controlled by at least one local controller device 132, 134, said system comprising:

a) well capping means (see Fig. 2 attached) for capping the at least one well pipe;

b) wherein said well capping means comprises

i) [at least one] closure means 64 for substantially closing the at least one upper opening,

ii) [at least one] protective cover means 62 for protectively covering the at least one local controller device, and

iii) [at least one] support means (upper surface of 64) for supporting the at least one local controller device within said protective cover means. With respect to depending claims 3 and 4, the reference teaches the limitations as claimed, including

the cap supported by at least one well pipe 40 and the closure comprises at least one mount (see Fig. 2 attached).

Allowable Subject Matter

3. Claims 5-21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
4. Claims 22-29 are allowed.

Response to Arguments

5. Applicant's arguments with respect to claims 1-29 have been considered but are moot in view of the new ground(s) of rejection.
6. Applicant's arguments filed 2/6/06 have been fully considered but they are not persuasive. Claim 1 requires three elements: a "closure means," a "protective cover means," and a "support means" as part of a "well capping means." Applicant's elements 106 and 108 are the "closure means" and "protective cover means," respectively. See Figs. 1 and 2. In addition, the upper surface 110 of the "closure means" 106 serves as the "support means." See the last paragraph on page 7 of the written description.

The phrase in the preamble of claim 1 beginning with "for capping" in the first line and ending with "controller device" in the third line is a statement of intended use, which adds no structure to the claim. See MPEP 2111.02. In this instance, the body of the claim fully and intrinsically sets forth all of the limitations of the claimed invention, i.e.

"closure means," "protective cover means," and "support means." Furthermore, the claim does not rely on the preamble to give life, meaning, and vitality to it. In addition, the phrases, "for capping the at least one well pipe" in claim 1 par. a); "for substantially closing the at least one upper opening" in par. b) i); "for protectively covering the at least one local controller device" in par. b) ii); and "for supporting the at least one local controller device within said protective cover means in par. b) iii) are statements of intended use that do not add any structure to the claimed invention. Thus, the only elements required by claim 1 are a "closure means," a "protective cover means," and a "support means" that are capable of performing the claimed functions. It is submitted that Bott's elements 62 and 64 are capable of performing all the recited functions. Note col. 4, lines 54-61 of Botts that describe plate 64 as a "closure plate" and element 62 as a "closure dome." Closure plate 64 and closure dome 62 function to close the upper end of pipe 40. Additionally, closure dome 62 protectively covers float valve 66 while the upper surface of closure plate 64 acts as a support means for float valve 66. Thus, Bott's closure plate 64 and closure dome 62 are capable of performing all of the claimed functions, and thus anticipates claims 1. Claim 2 is anticipated for the same reasons. Claims 3 and 4 merely add limitations that are clearly met by Botts.

It is further noted that in the applicant's response, applicant discussed dome 62 and broadly argued that it does not comprise "protective cover means for protectively covering the at least one local controller device" or "support means for supporting the at least one controller device within said protective cover means." However, applicant did not specifically explain why dome 62 does not meet the "protective cover means"


limitation or why closure plate 64 does not meet the "closure means" and "support means" limitations.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zakiya W. Bates whose telephone number is (571) 272-7039. The examiner can normally be reached on Monday-Friday, 8:30 AM-5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on (571) 272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Zakiya W. Bates
Primary Examiner
Art Unit 3676

zb
August 16, 2006

(Attachment)

